

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON,

Respondent,

v.

DELESSIA JOAN CHAPIN,

Appellant.

No. 39827-3-II

UNPUBLISHED OPINION

Quinn-Brintnall, J. — Delessia Chapin appeals a Clallam County Superior Court order revoking her drug offender sentencing alternative (DOSAs), RCW 9.94A.660. She contends that the trial court abused its discretion. We affirm.¹

FACTS

On June 23, 2009, the State charged Chapin with possession of methamphetamine, resisting arrest, and third degree driving with a suspended or revoked license. On July 13, 2009, Chapin pleaded guilty to possession of methamphetamine, and the State dropped the other charges.

¹ A commissioner of this court considered the matter pursuant to RAP 18.14 and referred it to a panel of judges.

The trial court granted Chapin's request for a residential DOSA despite the evaluator's finding that the prognosis for success was poor. Because of Chapin's history of relapse, the court wanted her to go directly from custody to Advantage Behavioral Health Systems, with no opportunity for drug use before the first day of treatment. It arranged for a bus ticket for Chapin and ordered that she be confined until August 1, when she was to travel to the treatment facility.

The judgment and sentence included conditions prohibiting the use of illegal controlled substances and requiring Chapin to submit to urinalysis and report as directed to her community corrections officer (CCO). It also provided that the trial court "may order the Defendant to serve a term of total confinement within the standard range at any time during the period of community custody if the Defendant violates the conditions of sentence or if the offender is failing to make satisfactory progress in treatment." Clerk's Papers at 22.

On the morning of August 1, Chapin contacted her CCO and told him that she had not been able to board the bus because her name was not on the manifest. On the CCO's advice, she contacted the Greyhound station in Seattle to check its manifest, but she was not on their list either. The CCO then instructed her to report to him first thing on Monday morning, August 3, so that he could go to court with her to make other arrangements.

Chapin did not report as directed. Instead, she obtained a ride to the treatment center from a family member. When she checked in, she provided a urine sample that was negative for controlled substances. However, after treatment staff observed strange behavior, they collected another sample, which tested positive for methamphetamine. Chapin admitted that she had used methamphetamine on August 2 and 3. She said that she had falsified her initial urinalysis by inserting a bottle of her own clean urine into her vagina and using that for the test.

The State moved to revoke the DOSA. At the hearing, the trial court noted Chapin's long history of unsuccessful treatment. It also noted that two other people had experienced the same difficulty with the bus reservations but had arrived clean and sober at the treatment center. It revoked the DOSA and scheduled another sentencing hearing at which it sentenced Chapin to 18 months in prison.

ANALYSIS

Decisions on revocation of a suspended sentence rest within the discretion of the trial court and will not be disturbed absent an abuse of discretion. *State v. McCormick*, 166 Wn.2d 689, 705-06, 213 P.3d 32 (2009). The trial court does not abuse its discretion unless its decision is “manifestly unreasonable, or exercised on untenable grounds.” *McCormick*, 166 Wn.2d at 706 (quoting *State ex rel. Carroll v. Junker*, 79 Wn.2d 12, 26, 482 P.2d 775 (1971)).

Chapin argues that the trial court abused its discretion because it did not give her a chance to undertake treatment. She had, in fact, had prior chances for treatment. She had six prior drug crimes. In 1996, after her first crimes, she received a first offender sentence in which treatment was ordered. In 2006, she was placed in a prison-based DOSA program. However, she repeatedly violated the conditions of treatment and the court revoked that DOSA. She had committed the current crime only five days after her release from prison. And her failure to maintain sobriety for even 48 hours after her release to residential treatment underscored her lack of commitment to change. These were tenable grounds for the trial court's decision.

No. 39827-3-II

Affirmed.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record pursuant to RCW 2.06.040, it is so ordered.

QUINN-BRINTNALL, J.

We concur:

ARMSTRONG, P.J.

HUNT, J.